

**RESOLUTION NO. 2012-39**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE  
VILLAGE OF KEY BISCAYNE, FLORIDA APPROVING A  
MODIFIED PARKING PLAN FOR PROPERTY LOCATED AT  
260 SUNRISE DRIVE IN ORDER TO PERMIT A TWO-WAY  
PARKING AISLE WITH A WIDTH OF 6.9 FEET; AND  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Sunrise Manors Inc. (the “Applicant”) is the owner of the common elements of a condominium located at 260 Sunrise Drive, Key Biscayne, Florida (the “Property”); and

**WHEREAS**, the Applicant desires to modify the existing parking plan on the Property to permit a two-way parking aisle with a width of 6.9 feet (the “Application”); and

**WHEREAS**, after proper public notice, the Village Council conducted a public hearing and considered all testimony and other evidence presented and otherwise made part of the record.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE  
VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

**Section 1.     Recitals Adopted.** The recitals set forth above are hereby adopted and confirmed.

**Section 2.     Approval of Application.** The Village Council hereby approves the Application to modify the existing parking areas on the Property as provided for in Exhibit “A” to this Resolution.

**Section 3.     Conditions.** The approval granted by this Resolution is subject to compliance with the following conditions, to which the Applicant stipulated and agreed to at the public hearing:

1.     The placement of landscaping at the end of each angled parking space along the side property line including ground cover and one (1) palm tree per space. The parking lot plan shall include the landscaping requirement and be approved by the BZP Director

prior to the issuance of permit to re-striping the lot.

2. The recording of a covenant on a form approved by the Village Attorney stating that the applicant holds the Village harmless in the event of insurance claims arising from the width of the driveway or design of the parking lot be presented to the Village prior to the issuance of a building permit for the re-striping and landscaping of the parking lot.

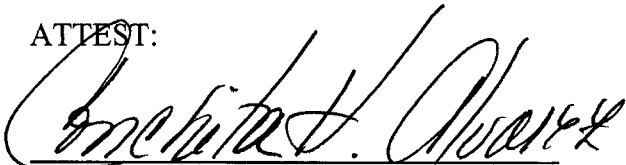
**Section 4. Recording.** This Resolution shall be recorded, prior to the issuance of a building permit, by the Applicant at its expense in the public records of Miami-Dade County. A copy of the proof of recordation shall be submitted to the Building, Zoning and Planning Department prior to the issuance of any building permits.

**Section 5. Effective Date.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this 23 day of October, 2012.

  
MAYOR FRANKLIN H. CAPLAN

ATTEST:

  
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

  
VILLAGE ATTORNEY



# EXHIBIT "A"



## VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning  
88 West McIntyre Street, Suite 250 Key Biscayne, FL 33149  
Phone (305) 365-5512 Fax (305) 365-5556  
www.keybiscayne.fl.gov

### PLANNING AND ZONING APPLICATION

Date Filed: 8-28-12

File #: RV-34  
(to be completed by Staff)

#### 1. REQUEST FOR:

- |   |  |
|---|--|
| <input type="checkbox"/> SUPERVISORY VARIANCE                 | <input type="checkbox"/> AMENDMENT TO ZONING ORDINANCE       |
| <input type="checkbox"/> ADMINISTRATIVE VARIANCE              | <input type="checkbox"/> SPECIAL EXCEPTION                   |
| <input checked="" type="checkbox"/> REGULATORY VARIANCE       | <input type="checkbox"/> AMENDMENT TO THE COMPREHENSIVE PLAN |
| <input type="checkbox"/> APPEAL OF AN ADMINISTRATIVE DECISION | <input type="checkbox"/> ZONING DISTRICT CHANGE              |
| <input type="checkbox"/> SITE PLAN APPROVAL                   |  |
| <input type="checkbox"/> UNUSUAL USE                          |  |
| <input type="checkbox"/> OTHER _____                          |  |

#### Explain your request:

Several variances to allow the Applicant to obtain a building permit  
to complete asphalt overlay and re-striping of parking lots.

2. Street Address of Property: 250 - 260 Sunrise Drive, Key Biscayne

Legal Description: Lot(s) 7 & 8 Block 2

Subdivision: RUTGERS SUBDIVISION, PB 76/P62

3. Name of Applicant: Sunrise Manors Inc., a Condominium

Mailing Address of Applicant: C/o Whitney MacEachern 250-260 Sunrise Drive  
Apt. A, Key Biscayne, FL 33149

Business Telephone: 305-206-6157 Home Telephone: 305-365-1821

Fax: \_\_\_\_\_ Email: whitney@maceachern.net

4. Name of Property Owner if Different from Applicant: N/A

Address of Property Owner if Different from Applicant: \_\_\_\_\_

Business Telephone: \_\_\_\_\_ Home Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

5. Contact Person: Name Mark E. Fried, Esq.

Address Mark E. Fried, P.A. 1110 Brickell Ave., Ste. 310, Miami, FL 33131

Telephone: 305-371-7079 Fax: 305-371-5727

6. Name/address of anyone else who should receive notice of the hearing?

List is attached.

7. If applicant is owner, indicate date purchased: August 5, 1965

8. If applicant is lessee, indicate date leased N/A Years \_\_\_\_\_

9. Is there an option to purchase the property? Yes ( ) No (☒)

10. Is the request the result of a violation notice? NO If yes, attach a copy of the violation.

11. Existing use of property condominium. If residential, how many apartments 14 ?

hotel units N/A ? If commercial, how many sq. ft. in your space N/A ?

Single family home? Yes ( ) No (☒)

12. If this application pertains to an Appeal of an Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation)

N/A

13. If this is a request for a variance, the Code requires that you substantiate why this request should be granted. In order to do this properly, please indicate how your request complies with the following standards:

- a. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

See attachment

- 
- b. Is compatible with the surrounding land uses and would not be detrimental to the community.

**See attachment**

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14. If this is a request for any other type of application, please see staff for a listing of the evaluation criteria.
15. All supporting data and exhibits submitted with this application become a permanent part of the public records.
16. If you are a lobbyist as described in the Village Code, please contact the Village Clerk at (305) 365-5506.

13.

Applicant requests 3 variances:

1. waive the size and dimension requirements to maintain the six (6) angled parking spaces on the east side of the property;

2. waive the aisle width of the off-street parking facilities; and

3. waive the landscaping strip along the east property line of the Property.

- a. Maintains the basic intent and purpose of the zoning, Subdivision and other land Use Regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

The applicant has maintained the parking spaces as depicted in the schematic since March 2, 1976. An aerial photograph of the Property taken on September 20, 1968 obtained from Miami History Museum photographic archives depicts that the parking spaces on the east side of the Property were angled parking spaces. The applicant's maintaining the parking spaces and striping as existed for more than 44 years does not affect the stability and appearance of the community. Allowing the applicant to maintain its off-street parking as it has during the twelve years the Village of Key Biscayne has existed is maintaining the basic intent and purpose of the zoning.

- b. Is compatible with the surrounding land Uses and would not be detrimental to the community.

The applicant has maintained its off-street parking (parking space angles, widths, lengths and aisle width) while the surrounding land uses were developed. The applicant's continued use of its off-street parking for more than 44 years has not been detrimental to the community and would not be detrimental to the community by allowing the applicant to repave its parking facilities and re-stripping them as they have existed. The granting of the variance is compatible with the surrounding land uses - condominium. Since the conditions of the Applicant's parking lot striping has been maintained for more than 36 years, Applicant's request is compatible with the surrounding land uses and would not pose any threats on or be detrimental to automobile or pedestrian traffic on Sunrise Drive or the community.

## **SUPERVISORY VARIANCES ONLY**

The Supervisory procedure requires the nearest abutting property owner to approve your request and your certification that the work was not performed by you. Your signature on this application constitutes your certification that you did not perform the work. The next step is to request the nearest property owner to sign below or provide a letter approving your request. Their signature certifies that they have read this application and approves of the request.

### **ABUTTING PROPERTY OWNER AFFIDAVIT**

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

## **ADMINISTRATIVE VARIANCES ONLY**

The Administrative Variance procedures require all abutting property owners to approve your request. The attached map will assist you in identifying who must sign the below petition. It is suggested you meet with staff prior to circulating your petition.

### **ABUTTING PROPERTY OWNER AFFIDAVIT**

I, the undersigned, have read or have had read to me the information applicable for a request for and Administrative Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature
Date	Name (Type or Print)	Address	Signature

If you need additional signatures please use the above format.

### CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

(I) (We) certify that (I) (we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I) (we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my) (our) knowledge. (I) (we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant: By: Sunrise Manors Inc. [Signature] Date 8-22-2012

Signature of Owner: By: Sunrise Manors Inc. [Signature] Date 8-22-2012

Application Received by: [Signature] Date 8-28-12

Approved by: \_\_\_\_\_ Date \_\_\_\_\_



## AFFIDAVITS

Complete one or more of the following that relates to your request.

### Tenant or Owner Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)

I, \_\_\_\_\_, being first duly sworn, depose and say that I am the owner/tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, \_\_\_\_\_, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

\_\_\_\_\_  
Signature of Applicant

Sworn to (or affirmed) and subscribed before me this  
\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_  
Name of person making statement

\_\_\_\_\_  
Signature of Notary Public - State of Florida

\_\_\_\_\_  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

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### Corporation Affidavit

I, Whitney McEachern, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

Whitney McEachern, president of  
I, Sunrise Manors Inc., hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

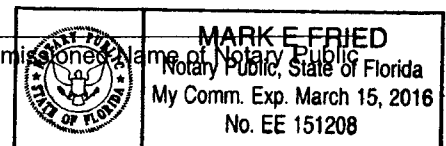
Whitney McEachern  
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this  
22 day of August 2012, by Whitney McEachern, President of Sunrise Manors Inc.  
Name of person making statement

Mark E. Fried  
Signature of Notary Public - State of Florida

\_\_\_\_\_  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



**Owner/Power of Attorney Affidavit**

I, Whitney McEachern, being duly sworn, depose and say that Sunrise Manors Inc. is the owner of the described real property and that I am aware of the nature and effect the request for: Regulatory Variances

relative to my property, which is hereby made by me OR I am here by authorizing Mark E. Fried, Esq. to be my legal representative before the Village Council.

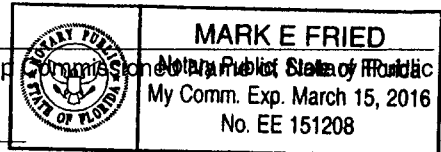
I, Whitney McEachern, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

Sworn to (or affirmed) and subscribed before me this  
22 day of August 2014, by Whitney McEachern.  
Name of person making statement

Whitney McEachern  
Signature of President (Corp. Seal)  
Mark E. Fried  
Signature of Notary Public - State of Florida

Print, Type, or Stamp



Personally Known ☒ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_